

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MARY TOMOOKA,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY, *et al.*

Defendants.

Case No. 1:22-cv-00942-AWI-CDB

ORDER SETTING SETTLEMENT CONFERENCE, PARAMETERS AND SCHEDULING PRE-CONFERENCE TELEPHONIC DISCUSSION

Settlement Statements due: **June 28, 2023**
Pre-Settlement Conference: **July 5, 2023**
Settlement Conference: **July 12, 2023**
10:30 am

Based on the parties' joint status report (Doc. 46), Magistrate Judge Christopher D. Baker will hold a settlement conference on **July 12, 2023, at 10:30 a.m.** Unless the parties request the conference to be in-person, the Court will conduct the settlement conference via video conference. The Zoom settlement conference invitation will be distributed the week prior.¹ The Court expects the parties will proceed with the settlement conference in good faith and attempt to resolve all or part of the case. If any party believes that the settlement conference will not be productive, that

¹ Any difficulties concerning Zoom video conference, or connecting to the Zoom video conference, shall immediately be reported to Susan Hall, Courtroom Deputy for Magistrate Judge Baker, at SHall@caed.uscourts.gov.

1 party shall so inform the court as far in advance of the settlement conference as possible.

2 Unless otherwise permitted in advance by the court, the following individuals must attend
3 the settlement conference: (1) all of the attorney(s) who will try the case; and (2) individuals with
4 full authority to negotiate and settle the case, on any terms. *See Local Rule 270(f).*

5 **No later than June 28, 2023**, each party must submit to Magistrate Judge Baker's
6 chambers at CDBorders@caed.uscourts.gov a confidential settlement conference statement. These
7 statements should neither be filed on the docket nor served on any other party.

8 In compliance with Local Rule 270(d)-(e), the settlement statements will be used
9 exclusively for the undersigned to prepare for and conduct the settlement conference. They will
10 not become part of the case file and will be shredded thereafter under Local Rule 270(e). If applicable,
11 the statements should be marked "CONFIDENTIAL." *See Local Rule 270(d).*

12 The statements should not exceed ten (10) pages and should include:

13 (1) a brief recitation of the facts;

14 (2) a discussion of the strengths and weaknesses of the case, including the parties' relevant
15 position on the factual and legal issues and brief review of the evidence to support the parties'
16 factual position;

17 (3) an itemized estimate of the expected costs for further discovery, pretrial, and trial
18 matters, in specific dollar terms;

19 (4) your best estimate of the probability that plaintiff will prevail should this case proceed
20 to trial;

21 (5) your best estimate of the damages or relief plaintiff may recover should this case proceed
22 to trial and plaintiff prevail (in specific dollar terms and/or injunctive relief, if applicable);

23 (6) a history of settlement discussions (including a listing of any current settlement offers
24 from any party, in specific dollar terms), a candid statement of your party's current position on
25 settlement, including **the amount that you will give/accept to settle** (in specific dollar terms), and
26 a statement of your expectations for settlement discussions;

27 (7) a list of the individuals who will be attending the settlement on the party's behalf,

1 including names and, if appropriate, titles.

2 At the outset of the settlement conference, the undersigned may call upon the parties'
3 counsel to give a brief (five-minute) opening presentation outlining the factual and legal highlights
4 of their case before the parties break into separate caucuses. The undersigned reserves the right to
5 dispense with the opening presentations of counsel if the undersigned determines that such
6 presentations are not likely to be productive.

7 Notwithstanding the provisions of Federal Rule of Evidence 408, all statements made by
8 the parties relating to the substance or merits of the case, whether written or oral, made for the first
9 time during the settlement conference will be deemed to be confidential and shall not be admissible
10 in evidence for any reason in the trial of the case, should the case not settle. This provision does
11 not preclude admissibility in other contexts, such as pertaining to a motion for sanctions regarding
12 the settlement conference.

13 Judge Baker will hold a short, telephonic pre-settlement conference on **July 5, 2023, at**
14 **10:00 a.m.** (dial-in number: 1-877-402-9757, Access Code 6966236). Only the lead attorney from
15 each side² should participate. At Judge Baker's discretion, the telephonic conference may be
16 followed by private telephonic discussions between the judge and each party.

17 IT IS SO ORDERED.

18 Dated: March 20, 2023


19 UNITED STATES MAGISTRATE JUDGE

20
21
22
23
24
25
26
27

28 ² The Court expects that the attorneys participating in the telephone discussion will also participate
in the settlement conference.